

IN THE CIRCUIT COURT OF GREENE COUNTY, MISSOURI

| | | |
|---------------------------|---|----------|
| STEPHEN CAULFIELD, |) | |
| |) | |
| Plaintiff, |) | |
| |) | |
| vs. |) | Case No. |
| |) | |
| TEXAS ROADHOUSE HOLDINGS, |) | |
| LLC, |) | |
| |) | |
| Defendant. |) | |

PETITION

COMES NOW plaintiff, by and through his attorneys of record, and for his cause of action against defendant Texas Roadhouse Holdings, LLC states, alleges and avers as follows:

1. Jurisdiction and venue are proper in the Circuit Court of Greene County, Missouri because the incident alleged herein occurred in Greene County, Missouri and the amount in controversy exceeds \$25,000.00.
2. On March 28, 2019, defendant owned, maintained, controlled and/or maintained a Texas Roadhouse restaurant located at 255 E. Monastery Street, Springfield, Missouri.
3. On March 28, 2019, plaintiff was a customer at defendant's Texas Roadhouse restaurant.
4. As plaintiff was walking from the parking lot towards the front entry door of defendant's restaurant, he slipped on one or more peanut shells, fell forward, and struck the frame of the entry door with his head and face.

5. There were peanut shells on the ground of defendant's premises adjacent to the entryway of defendant's restaurant and as a result the ground of defendant's premises adjacent to the entryway of defendant's restaurant was not reasonably safe.

6. Defendant knew or by using ordinary care could have known of the dangerous condition of its premises.

7. Defendant failed to use ordinary care to:

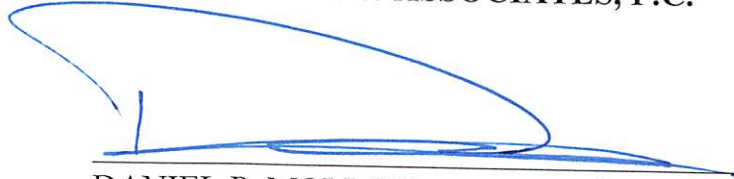
- (a) Remedy or remove the dangerous condition; and/or
- (b) Warn of the dangerous condition.

8. As a result of defendant's failure to exercise ordinary care, plaintiff sustained the following:

- (a) Past and future expenses for medical supplies, medicine, and the services of physicians, nurses, hospitals, pharmacists, therapists, psychologists, and other health care providers and related medical expenses;
- (b) Injury to his head;
- (c) Injury to his brain;
- (d) Injury to his face;
- (e) Injury to his nose;
- (f) Injury to his left eye;
- (g) Injury to his neck;
- (h) Injury to his shoulders;
- (i) Loss of household contributions.

WHEREFORE plaintiff prays for a judgment against defendant in such sum as is fair and reasonable, for an award of his taxable court costs, and for such further and additional relief as is just and proper.

AARON SACHS & ASSOCIATES, P.C.



DANIEL P. MOLLOY

#58871

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Springfield, MO 65804

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Fax (417) 889-5359

daniel@autoinjury.com


Attorney for Plaintiff



IN THE 31ST JUDICIAL CIRCUIT, GREENE COUNTY, MISSOURI

| | | |
|---|---|-------------------|
| Judge or Division: MICHAEL J CORDONNIER | Case Number: 2031-CC00888 | (Date File Stamp) |
| Plaintiff/Petitioner: STEPHEN CAULFIELD | Plaintiff's/Petitioner's Attorney/Address DANIEL PATRICK MOLLOY 3271 EAST BATTLEFIELD SUITE 350 SPRINGFIELD, MO 65804 | |
| Defendant/Respondent: TEXAS ROADHOUSE HOLDINGS LLC | Court Address: JUDICIAL COURTS FACILITY 1010 N BOONVILLE AVE SPRINGFIELD, MO 65802 | |
| Nature of Suit: CC Pers Injury-Other | | |

Summons in Civil Case

| | |
|--|---|
| <p>The State of Missouri to: TEXAS ROADHOUSE HOLDINGS LLC Alias: R/A CSC-LAWYERS INC SERVICE 221 BOLIVAR ST JEFFERSON CITY, MO 65101 COURT SEAL OF</p>  <p>GREENE COUNTY</p> | <p>You are summoned to appear before this court and to file your pleading to the petition, a copy of which is attached, and to serve a copy of your pleading upon the attorney for plaintiff/petitioner at the above address all within 30 days after receiving this summons, exclusive of the day of service. If you fail to file your pleading, judgment by default may be taken against you for the relief demanded in the petition.</p> <p><u>07/28/2020</u> Date</p> <p><u>/S/ THOMAS R. BARR BY CR</u> Clerk</p> |
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| | |
|---|--|
| <p align="center">Sheriff's or Server's Return</p> <p>Note to serving officer: Summons should be returned to the court within 30 days after the date of issue.</p> <p>I certify that I have served the above summons by: (check one)</p> <p><input type="checkbox"/> delivering a copy of the summons and a copy of the petition to the defendant/respondent.</p> <p><input type="checkbox"/> leaving a copy of the summons and a copy of the petition at the dwelling place or usual abode of the defendant/respondent with _____, a person of the defendant's/respondent's family over the age of 15 years who permanently resides with the defendant/respondent.</p> <p><input type="checkbox"/> (for service on a corporation) delivering a copy of the summons and a copy of the complaint to: _____ (name) _____ (title).</p> <p><input type="checkbox"/> other: _____.</p> <p>Served at _____ (address)</p> <p>in _____ (County/City of St. Louis), MO, on _____ (date) at _____ (time).</p> <p>_____ Printed Name of Sheriff or Server</p> <p>_____ Signature of Sheriff or Server</p> <p align="center">Must be sworn before a notary public if not served by an authorized officer:</p> <p>Subscribed and sworn to before me on _____ (date).</p> <p>My commission expires: _____ Date _____ Notary Public</p> | |
|---|--|

| | |
|--|--|
| <p>Sheriff's Fees, if applicable</p> <p>Summons \$ _____</p> <p>Non Est \$ _____</p> <p>Sheriff's Deputy Salary \$ 10.00</p> <p>Supplemental Surcharge \$ _____</p> <p>Mileage \$ _____ (_____ miles @ \$. _____ per mile)</p> <p>Total \$ _____</p> <p>A copy of the summons and a copy of the petition must be served on each defendant/respondent. For methods of service on all classes of suits, see Supreme Court Rule 54.</p> | |
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**IN THE CIRCUIT COURT OF GREENE COUNTY
STATE OF MISSOURI**

| | | |
|-------------------------------|---|-------------------------|
| STEPHEN CAULFIELD, |) | |
| |) | |
| Plaintiff, |) | |
| |) | Cause No.: 2031-CC00888 |
| v. |) | |
| |) | Division: I |
| TEXAS ROADHOUSE HOLDINGS, LLC |) | |
| |) | JURY TRIAL DEMANDED |
| Defendant. |) | |

ENTRY OF APPEARANCE

COME NOW John P. Kemppainen, Jr. and Ryneearson, Suess, Schnurbusch & Champion, LLC, and hereby enter their appearance on behalf of Defendant Texas Roadhouse Holdings, LLC in the instant case.

**RYNEARSON, SUESS, SCHNURBUSCH
& CHAMPION, LLC**

BY /s/ John P. Kemppainen, Jr.
 John P. Kemppainen, Jr. #42461
 Jennifer L. Woulfe #64252
Attorneys for Defendant.
 500 N. Broadway, Suite 1550
 St. Louis, MO 63102
 314-421-4430/314-421-4431 (FAX)
jkemppainen@rssclaw.com
jwoulfe@rssclaw.com

CERTIFICATE OF SERVICE

A copy of the foregoing was filed and served via the Court's electronic filing system on August 31, 2020 upon all attorneys of record. Pursuant to Rule 55.03(a), the undersigned certifies that he has signed the original of this pleading and maintains said original at his office.

/s/ John P. Kemppainen, Jr.

**IN THE CIRCUIT COURT OF GREENE COUNTY
STATE OF MISSOURI**

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|-------------------------------|---|-------------------------|
| STEPHEN CAULFIELD, |) | |
| |) | |
| Plaintiff, |) | |
| |) | Cause No.: 2031-CC00888 |
| v. |) | |
| |) | Division: I |
| TEXAS ROADHOUSE HOLDINGS, LLC |) | |
| |) | JURY TRIAL DEMANDED |
| Defendant. |) | |

ENTRY OF APPEARANCE

COMES NOW Jennifer L. Woulfe of Rynearson, Suess, Schnurbusch & Champion, LLC, and hereby enters her appearance on behalf of Defendant Texas Roadhouse Holdings, LLC in the instant case.

**RYNEARSON, SUESS, SCHNURBUSCH
& CHAMPION, LLC**

BY /s/ Jennifer L. Woulfe
 John P. Kemppainen, Jr. #42461
 Jennifer L. Woulfe #64252
Attorneys for Defendant.
 500 N. Broadway, Suite 1550
 St. Louis, MO 63102
 314-421-4430/314-421-4431 (FAX)
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jwoulfe@rssclaw.com

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/s/ Jennifer L. Woulfe

**IN THE CIRCUIT COURT OF GREENE COUNTY
STATE OF MISSOURI**

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|-------------------------------|---|-------------------------|
| STEPHEN CAULFIELD, |) | |
| |) | |
| Plaintiff, |) | |
| |) | Cause No.: 2031-CC00888 |
| v. |) | |
| |) | Division: I |
| TEXAS ROADHOUSE HOLDINGS, LLC |) | |
| |) | JURY TRIAL DEMANDED |
| Defendant. |) | |

**ANSWER OF DEFENDANT TEXAS ROADHOUSE HOLDINGS, LLC
TO PLAINTIFF'S PETITION**

COMES NOW Defendant Texas Roadhouse Holdings, LLC, by and through counsel, and for its Answer to Plaintiff Stephen Caulfield's Petition, states as follows:

1. This paragraph of Plaintiff's Petition states a legal conclusion to which no response is required. To the extent a response may be required, this Defendant denies the allegations contained in this paragraph of Plaintiff's Petition.
2. This Defendant admits that on March 28, 2019, it operated a Texas Roadhouse restaurant located at 255 E. Monastery St., Springfield, MO. It denies each and every other allegation contained in this paragraph of Plaintiff's Petition not specifically admitted herein.
3. This Defendant has insufficient information to admit or deny the allegations contained in this paragraph of Plaintiff's Petition and therefore denies them.
4. This Defendant denies the allegations contained in this paragraph of Plaintiff's Petition.
5. This Defendant denies the allegations contained in this paragraph of Plaintiff's Petition.

6. This Defendant denies the allegations contained in this paragraph of Plaintiff's Petition.

7. This Defendant denies the allegations contained in this paragraph of Plaintiff's Petition, including all subparts.

8. This Defendant denies the allegations contained in this paragraph of Plaintiff's Petition, including all subparts.

AFFIRMATIVE DEFENSES APPLICABLE TO ALL COUNTS

1. For its affirmative defense, this Defendant states Plaintiff's Petition and cause of action fails to state a claim for which relief can be granted.

2. For its further affirmative defense, this Defendant states hypothetically and in the alternative, without admitting any allegations contained in Plaintiff's Petition, and while continuing to deny the same, that should a verdict be entered in favor of Plaintiff, then that verdict must be reduced to the extent Plaintiff's own negligence caused or contributed to cause his damages, if any; such negligence consisting of one or more of the follows:

- a. Plaintiff failed to keep a careful lookout;
- b. Plaintiff failed to appreciate an open and obvious condition;
- c. Plaintiff was aware of the risk described in his Petition and proceeded in the face of said risk, thereby assuming the risk of injury;
- d. Plaintiff himself caused the condition complained of in his Petition;
- e. Plaintiff's fall was caused by his own body movements; and
- f. Plaintiff failed to mitigate his damages.

3. For its further affirmative defense, this Defendant states hypothetically and in the alternative, without admitting any allegations contained in Plaintiff's Petition, and while continuing to deny the same, that Plaintiff's damages were caused by the independent acts of third parties over whom this Defendant had no control or right of control and whose actions

constituted an intervening and superseding cause of Plaintiff's damages such that any negligence on the part of this Defendant was not the proximate cause of Plaintiff's damages, and therefore Plaintiff's claims against this Defendant are barred.

4. For its further affirmative defense, this Defendant states hypothetically and in the alternative, without admitting any allegations contained in Plaintiff's Petition, and while continuing to deny the same, that the condition complained of in Plaintiff's Petition constituted an open and obvious condition such that Plaintiff knew or should have known of said condition and as such, Plaintiff's claims against this Defendant are barred.

5. For its further affirmative defense, this Defendant states hypothetically and in the alternative, without admitting any allegations contained in Plaintiff's Petition, and while continuing to deny the same, that Plaintiff was aware of and appreciated the risk complained of in his Petition and proceeded in the face of said risk, thereby assuming the risk of injury and barring recovery from this Defendant.

6. This Defendant hereby demands a trial by jury.

WHEREFORE, Defendant Texas Roadhouse Holdings, LLC respectfully requests to be dismissed hence, together with its proper costs, and for whatever other and further relief the Court deems just and proper under the circumstances.

**RYNEARSON, SUESS, SCHNURBUSCH
& CHAMPION, LLC**

BY /s/ John P. Kemppainen, Jr.
 John P. Kemppainen, Jr. #42461
 Jennifer L. Woulfe #64252
Attorneys for Defendant.
 500 N. Broadway, Suite 1550
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jwoulfe@rssclaw.com

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/s/ John P. Kemppainen, Jr.

**IN THE CIRCUIT COURT OF GREENE COUNTY
STATE OF MISSOURI**

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| STEPHEN CAULFIELD, |) | |
| |) | |
| Plaintiff, |) | |
| |) | Cause No.: 2031-CC00888 |
| v. |) | |
| |) | Division: I |
| TEXAS ROADHOUSE HOLDINGS, LLC |) | |
| |) | JURY TRIAL DEMANDED |
| Defendant. |) | |

CERTIFICATE OF SERVICE

COMES NOW the undersigned and hereby certifies that Defendant, Texas Roadhouse Holdings, LLC, served its Request for Admissions on August 31, 2020 via First Class U.S. Mail, postage prepaid, upon counsel for Plaintiff, Daniel Molloy, Aaron Sachs & Associates, PC, 3271 E. Battlefield, Suite 350, Springfield, MO 65804, with a Word version served via e-mail at: Daniel@autoinjury.com.

**RYNEARSON, SUESS, SCHNURBUSCH
& CHAMPION, LLC**

BY /s/ Jennifer L. Woulfe
 John P. Kemppainen, Jr. #42461
 Jennifer L. Woulfe #64252
Attorneys for Defendant.
 500 N. Broadway, Suite 1550
 St. Louis, MO 63102
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/s/ Jennifer L. Woulfe

IN THE CIRCUIT COURT OF GREENE COUNTY, MISSOURI

STEPHEN CAULFIELD

Plaintiffs,

V.

Case No.: 2031-CC00888

TEXAS ROADHOUSE HOLDINGS,LLC

Defendant.

CERTIFICATE OF SERVICE

I certify that *Plaintiff's First Interrogatories to Defendant* , *Plaintiff's First Request for Production to Defendant* and this *Certificate of Service* were served through email and the electronic filing system pursuant to Supreme Court Rule 103.08, this 1st day of September 2020 addressed to the following attorneys for defendant:

John P. Kemppainen, Jr.
Jenifer L. Woulfe
RYNEARSON, SUESS, SCHNURBUSCH
& CHAMPION, LLC
500 N. Broadway, Suite 1550
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jkemppainen@rssclaw.com
jwoulfe@rssclaw.com
Attorneys for Defendant

AARON SACHS & ASSOCIATES, P.C.

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Springfield, MO 65804
Ph. (417) 889-1400
Fax (417) 889-5359
daniel@autoinjury.com

IN THE CIRCUIT COURT OF GREENE COUNTY, MISSOURI

STEPHEN CAULFIELD

Plaintiffs,

V.

TEXAS ROADHOUSE HOLDINGS,LLC

Defendant.

Case No.: 2031-CC00888

**PLAINTIFF'S REPLY TO DEFENDANT'S AFFIRMATIVE DEFENSES ASSERTED IN
DEFENDANT'S ANSWER**

COMES NOW plaintiff, by and through his attorneys of record, and, for his Reply to Defendant's Affirmative Defenses, states as follows:

1. Plaintiff denies Affirmative Defense 1.
2. Plaintiff denies Affirmative Defense 2 and all subparts thereto.
3. Plaintiff denies Affirmative Defense 3.
4. Plaintiff admits that defendant's premises were in a dangerous condition as alleged in plaintiff Petition. Plaintiff denies that the dangerous condition of defendant's premises was open and obvious. Plaintiff denies each and every other allegation of Affirmative Defense 4.
5. Plaintiff admits that defendant's premises were in a dangerous condition and that the condition of defendant's premises constituted a risk to defendant's customers, including plaintiff. Plaintiff denies that he assumed any risk by patronizing defendant's restaurant. Plaintiff denies each and every other allegation of Affirmative Defense 5.
6. Plaintiff admits that defendant demands a trial by jury.

WHEREFORE, plaintiff prays for a judgment against defendant in such sum as is fair and reasonable, for an award of his taxable court costs, for post-judgment interest at the legal rate, and for such further and additional relief as is just and proper.

AARON SACHS & ASSOCIATES, P.C.


 DANIEL P. MOLLOY #58871-
 3271 E. Battlefield, Suite 350
 Springfield, MO 65804
 Ph. (417) 889-1400 Fax (417) 889-5359
daniel@autoinjury.com
 Attorney for Plaintiff

CERTIFICATE OF SERVICE

I certify that *Plaintiff's Reply to Defendant's Affirmative Defenses Asserted in Defendant's Answer* was served through the electronic filing system pursuant to Supreme Court Rule 103.08 this 1st day of September 2020 addressed to the following:

John P. Kemppainen, Jr.
 Jenifer L. Woulfe
 RYNEARSON, SUESS, SCHNURBUSCH
 & CHAMPION, LLC
 500 N. Broadway, Suite 1550
 St. Louis, MO 63102
 Attorneys for Defendant


 DANIEL P. MOLLOY #58871